

**Agreement
Between
the Government of the United States of America
and
the Government of the Republic of India
to Establish a Board and an Endowment for Joint Research and
Development, Innovation, Entrepreneurial and
Commercialization Activities in Science and Technology**

The Government of the United States of America and the Government of the Republic of India (hereinafter the "Parties"),

Convinced that joint research and development (R&D) in science and technology (S&T), the application of the results of such R&D for the promotion of entrepreneurship and commercialization, and a competitive legal and policy environment are important stimulators of S&T capacity building, contributing to economic growth, increasing opportunities for job creation, and improving the quality of life,

Desiring to strengthen and expand S&T cooperation for the public good through S&T research and development and related entrepreneurial activities that develop sustained partnerships between U.S. and Indian scientists and entrepreneurs,

Desiring also to implement a program of such partnerships that substantiates the aims and objectives of the Agreement on Science and Technology Cooperation between the Government of the United States of America and the Government of the Republic of India signed at Washington October 17, 2005 (hereinafter "S&T Agreement"),

Have agreed as follows:

Article I

United States – India Science and Technology Endowment Board

1. The Parties hereby establish the United States – India Science and Technology Endowment Board (hereinafter the “Board”), in order to facilitate the unique and expanding role of S&T cooperation between the Parties.
2. The objective of the Board will be to provide funding for joint U.S.-India projects in S&T research and development, and related entrepreneurial activities intended to lead to the commercialization of R&D, for the mutual benefit of both countries.
3. This Agreement shall be governed by the S&T Agreement.

Article II

Relationship between the Board and Joint Committee

1. The Board shall solicit on a regular basis the strategic advice of the Joint Committee established under Article VI(1) of the S&T Agreement (hereinafter, the “Joint Committee”). The Board also may receive unsolicited advice from the Joint Committee, as appropriate.
2. The Board shall provide an annual report to the Joint Committee that describes the Board’s activities for the previous year and may provide advice to the Joint Committee.
3. Notwithstanding Article VI of the S&T Agreement and pursuant to Article IV(4) of the same Agreement, the Board shall be the final authority on all matters under this Agreement, including all decisions taken pursuant to this Agreement. The functions of the Joint Committee described in this Article shall constitute the extent of the Joint Committee’s relationship with the Board.

Article III

Governance

1. The Board may be registered under the relevant national law to the extent that the Parties determine it to be necessary to carry out the functions described in this Agreement.
2. The Board shall be composed of eighteen members with equal U.S. and Indian representation. Each Party shall select its members on the basis of such members’ interest and experience in past, present, and future S&T activities in India. Of the nine members selected by each Party, five shall be government representatives, including from government agencies

administering programs which may be supported in whole or in part by the Endowment. Pursuant to a transparent process, the remaining members shall be selected from the academic, non-profit, and private business sector communities. Board members shall hold office without compensation and at the pleasure of the Party by which they were appointed but may not serve more than four years consecutively.

3. Each Party shall appoint a Co-Chair from its nine members, who shall be an official of the government of that Party. Co-Chairs shall serve in that capacity at the pleasure of the Party by which they were appointed but may not serve more than four years consecutively. The Co-Chairs shall conduct Board meetings, direct the activities of the Board, and ensure that decisions of the Board are carried out.
4. The Board shall appoint an Executive Secretary, who may be selected from outside its membership on the Board, to provide organizational and technical support for ongoing work of the Board, which may include, but is not limited to, facilitating Board meetings and communications among Board members, organizing the peer review process and disbursement of grants as instructed by the Board, and engaging in any other work assigned by the Board consistent with this Agreement. Subject to the approval of the Board and the availability of resources, the Executive Secretary may hire additional staff to carry out these administrative functions.
5. Meetings of the Board shall occur annually, and may be held by video- or tele-conference. Upon agreement of the Parties, Board meetings also may be held in the United States or India, striving to alternate between the two countries when practicable. The host country is to bear organizational expenses for holding meetings of the Board. No endowment funds may be used to cover travel or living expenses of Board members or agency representatives related to meetings of the Board.
6. A quorum shall be achieved at a meeting of the Board when at least five of the designated members of the Board from each Party are present at the meeting, as long as the majority of each Party's attending members are governmental representatives and at least one of each Party's attending members is a non-governmental representative. All Board decisions require a quorum.
7. The Board shall strive to make all decisions by consensus. In the event that consensus is not possible, decisions shall be made on the basis of a two-thirds majority of the members of each Party present and voting, provided that the two-thirds majority includes the affirmative vote of at least one non-governmental representative of each Party.

Article IV Project Proposal Process

The Board shall establish procedures and criteria consistent with this Agreement for the request, evaluation, selection and administration of joint U.S.-India projects in S&T research and development, and related entrepreneurial activities intended to lead to the commercialization of R&D results. To this end:

- (1) In developing such procedures and criteria, the Board shall bear in mind the importance, as appropriate, of selecting financially promising joint U.S.-Indian entrepreneurial initiatives from the public and private sectors that focus on applied R&D, incorporate business plans and proof of commercial concept, and have significant commercial potential; periodically reviewing progress of joint technology activities supported by endowment grants; promoting and advocating science and technology policies, particularly intellectual property rights, to help create and maintain a pro-competitive environment that allows successful partnerships in innovation; selecting, supporting financially, and publicizing outstanding Indian student technology entrepreneurs and innovators; and demonstrating, through granting financial support to entrepreneurship and innovation partnerships between U.S. and Indian public and private entities, how high technology partnerships and the application of U.S. best business practices could have significant impact on economic development and benefit the public.
- (2) The Board shall direct the Executive Secretary to develop requests for proposals consistent with the criteria issued by the Board. In formulating such criteria, the Board shall address the scope of the request, minimum administrative submission requirements, and any other issues deemed relevant by the Board, and shall endeavor to provide for a fair and equitable competition among comparable entities.
- (3) On a periodic basis, the Board shall direct the Executive Secretary to issue a request for joint proposals from the governmental agencies and the non-governmental S&T communities of the Parties. The proposal process shall be open, but not limited, to collaborating scientists from U.S. and Indian institutes, universities, societies, private sector research and development centers, and governmental agencies, as well as to individual U.S. and Indian scientists.
- (4) Upon receipt of a proposal, the Executive Secretary shall determine whether the proposal meets the minimum administrative submission requirements specified in the request for proposals and make any other determination as directed by the Board. The Executive Secretary shall distribute all qualifying proposals to the peer review process, as developed pursuant to paragraph 5 of this

Article. If a proposal fails to meet the minimum administrative submission requirements, the Executive Secretary shall return the non-compliant proposal to the applicant(s). Applicant(s), as a general rule, shall be offered only one opportunity to revise and resubmit such a proposal. In order for a revised proposal to be considered during the same submission cycle, it should be resubmitted in a timely fashion.

- (5) The Board shall establish a clearly specified, transparent peer review process to assess the scientific and technical merit, and commercial potential, of submitted proposals, through contract or other arrangement, as appropriate, that engages the relevant subject matter experts from government agencies, the scientific community or the private sector. Taking into account any advice from relevant U.S. and Indian governmental agencies, the Board shall develop peer review process procedures that provide for confidentiality of proprietary information in the proposals and confidentiality of reviewer assignments, that avoid all conflicts of interest, and that result in a final product from each review competition that consists of a written critique and summary of discussion for each application and a priority score or rank in relation to the other proposals reviewed. The Board shall make written critiques available to all applicants, whether successful or unsuccessful, subject to the confidentiality procedures developed pursuant to this paragraph and any applicable U.S. and Indian laws and regulations. Any costs incurred in the peer review of proposals shall be part of the administrative expenses of the Board.
- (6) The Board shall evaluate the results of the peer review process according to the publicly accessible selection criteria developed by it to decide which proposals to fund, the appropriate level of funding, the duration of the award, the time-table of fund allocation for multi-year awards, any reporting or audit requirements that must be met for the actual transfer of funding, and any other matters deemed relevant by the Board. There shall be a presumption to fund those proposals ranked highly in both the U.S. and Indian peer review processes. However, the Board may consider other factors in making its final funding decisions, including priority area focus, program balance, budget appropriateness, and the uniqueness of the opportunity provided by a given proposal, keeping in mind that the assessment of scientific and technical merit, commercial potential, and the proposal's potential to further develop scientific and technological capacity and have an economic impact shall be the primary factors upon which funding shall be based.

Article V
Financing

1. The United States shall contribute 675,000,000 INR from the following sources to create an Endowment:
 - (a) The remainder of the so-called "Regular Fund," established upon conclusion of the Agreement between the Government of the United States of America and the Government of the Republic of India on Educational, Cultural, and Scientific Cooperation, signed at New Delhi, January 7, 1987 (the "USIF Agreement"); and
 - (b) Additional funds from so-called "Interim Fund," composed of the interest earned between the time the Regular Fund funds were appropriated by the U.S. Congress and the conclusion of the USIF Agreement.
2. The Government of India shall contribute to the Board each year an amount equivalent to (a) the annual interest earned on the Endowment on a semi-annual basis and (b) any of the Endowment's principal to be expended by the Board in accordance with paragraph 3 of this Article.
3. Each year, to fund grants the Board may use (a) the annual interest on the Endowment; (b) up to five percent of the Endowment's principal; and (c) the matching annual contribution or contributions by the Government of India as described in paragraph 2 of this Article.
4. Notwithstanding paragraph 3 of this Article, the Board may use a minimal fraction of the annual interest earned on the Endowment to cover administrative expenses, whether they occur in India, the United States or elsewhere, of executing its functions under this Agreement, which may include, but are not limited to, expenses relating to managing the Endowment, conducting the peer review process, and hiring the Executive Secretary and any staff thereunder. The Board shall determine the precise cap on administrative expenses in its operational procedures.
5. The Board shall develop an appropriate mechanism for managing and investing the Endowment.

Article VI
Intellectual Property and Business Confidential Information

1. As provided for in Article I(3) of this Agreement, provisions for the protection of business confidential information and the protection and distribution of intellectual property created or furnished in the course of activities under this Agreement are incorporated from Annex I of the S&T Agreement.
2. Notwithstanding paragraph 1 of this Article and pursuant to paragraph II.A of Annex I of the S&T Agreement, the Board may develop

alternative arrangements for the allocation of rights to intellectual property created by non-governmental entities that have submitted project proposals directly to the Board.

3. Any alternative arrangement developed by the Board in accordance with paragraph 2 of this Article shall include terms under which non-governmental entities grant to each Party:
 - (a) a non-exclusive, irrevocable, royalty-free license in all countries to translate, reproduce, and publicly distribute scientific and technical journal articles, reports, and books directly arising from grants awarded to such non-governmental entities by the Board; and
 - (b) a non-exclusive, irrevocable, royalty-free license in all countries to practice or have practiced inventions by or on behalf of the Party for research or other government purposes.

Article VII

Qualifications and Restrictions

1. Activities under this Agreement shall be subject to the laws and regulations of each country.
2. Nothing in this Agreement shall be construed to prejudice or in any way supersede or alter other arrangements for cooperation between the two countries. The Parties shall use their best efforts to ensure compatibility between the operation of this Agreement and other such agreements. The Board shall neither sponsor, nor permit under its auspices, any activity that would be proscribed by either Party's national laws, regulations or policies.

Article VIII

Review of Board Performance

The Parties, or an entity designated by the Parties, shall review the performance of the Board periodically, but at least every four years, commencing one year after the entry into force of this Agreement.

Article IX

Working and Reporting Languages

The working language of meetings of the Board shall be English. Decisions of the Board shall be in writing, publicly available, and recorded in English.

Article X
Entry into Force, Termination and Amendments

1. This Agreement shall enter into force upon signature of both Parties and shall remain in force for a period of ten years. It shall be extended automatically for successive periods of ten years unless either Party provides six months advance written notification to the other Party that it objects to such an automatic extension.
2. This Agreement may be terminated at any time by either Party upon six months written notice to the other Party.
3. In the event of termination, any remaining assets shall be disposed of according to the percentage of assets provided by each Party to the Endowment.
4. The Agreement may be amended at any time by mutual written agreement of the Parties.

DONE at New Delhi, in duplicate, this twentieth day of July 2009, in the English and Hindi languages, both the texts being equally authentic. In case of ambiguity, the English language version takes precedence.

FOR THE GOVERNMENT OF THE
UNITED STATES OF AMERICA:

FOR THE GOVERNMENT OF
INDIA:

Hillary Rodham Clinton

Pranab Mukherjee